109TH CONGRESS 2D SESSION

# H.R.4973

## **AN ACT**

To restore the financial solvency of the national flood insurance program, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

### 1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

- 2 (a) SHORT TITLE.—This Act may be cited as the
- 3 "Flood Insurance Reform and Modernization Act of
- 4 2006".
- 5 (b) Table of Contents for
- 6 this Act is as follows:
  - Sec. 1. Short title and table of contents.
  - Sec. 2. Findings and purposes.
  - Sec. 3. Study regarding status of pre-FIRM properties and mandatory purchase requirement for natural 100-year floodplain and non-Federally related loans.
  - Sec. 4. Phase-in of actuarial rates for nonresidential properties and non-primary residences.
  - Sec. 5. Waiting period for effective date of policies.
  - Sec. 6. Enforcement.
  - Sec. 7. Maximum coverage limits.
  - Sec. 8. Coverage for additional living expenses, basement improvements, business interruption, and replacement cost of contents.
  - Sec. 9. Increase in annual limitation on premium increases.
  - Sec. 10. Increase in borrowing authority.
  - Sec. 11. FEMA participation in State disaster claims mediation programs.
  - Sec. 12. FEMA reports on financial status of insurance program.
  - Sec. 13. Extension of pilot program for mitigation of severe repetitive loss properties.
  - Sec. 14. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
  - Sec. 15. Reiteration of FEMA responsibilities under 2004 Reform Act.
  - Sec. 16. Updating of flood maps and elevation standards.
  - Sec. 17. Notification and appeal of map changes; notification of establishment of flood elevations.
  - Sec. 18. National levee inventory.
  - Sec. 19. Clarification of replacement cost provisions, forms, and policy language.
  - Sec. 20. Authorization of additional FEMA staff.
  - Sec. 21. Investigation of write-your-own insurers' adjustment of claims relating to Hurricane Katrina.
  - Sec. 22. Eligibility of property demolition and rebuilding for mitigation assistance program.
  - Sec. 23. Sampling methods for quality assurance.
  - Sec. 24. Extension of deadline for filing proof of loss.

### 7 SEC. 2. FINDINGS AND PURPOSES.

- 8 (a) FINDINGS.—The Congress finds that—
- 9 (1) flooding has been shown to occur in all 50
- 10 States;

- 1 (2) the aggregate amount of the flood insurance 2 claims resulting from Hurricane Katrina, Hurricane 3 Rita, and other recent events has exceeded the ag-4 gregate amount of all claims previously paid in the 5 history of the national flood insurance program, re-6 quiring a significant increase in the program's bor-7 rowing authority;
  - (3) flood insurance policyholders have a legitimate expectation that they will receive fair and timely compensation for losses covered under their policies;
  - (4) substantial flooding has occurred, and will likely occur again, outside the areas designated by the Federal Emergency Management Agency as flood hazard areas;
  - (5) properties located in low- to moderate-risk areas are eligible to purchase flood insurance policies with premiums as low as \$112 a year;
  - (6) about 450,000 vacation homes, second homes, and commercial properties are subsidized and are not paying actuarially sound rates for flood insurance;
  - (7) phasing out subsidies currently extended to vacation homes, second homes, and commercial properties would result in estimated average savings

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- to the taxpayers of the United States and the national flood insurance program of \$335,000,000 each year;
  - (8) the maximum coverage limits for flood insurance policies should be increased to reflect inflation and the increased cost of housing;
  - (9) significant reforms to the national flood insurance program required in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 have yet to be implemented; and
  - (10) in addition to reforms required in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, the national flood insurance program requires a modernized and updated administrative model to ensure that the program is solvent and the people of the United States have continued access to flood insurance.

### (b) Purposes.—The purposes of this Act are—

- (1) to protect the integrity of the national flood insurance program by fully funding existing legal obligations expected by existing policyholders who have paid policy premiums in return for flood insurance coverage;
- (2) to increase incentives for homeowners and communities to participate in the national flood in-

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1	surance program and to improve oversight to ensure
2	full participation in the program for owners of prop-
3	erties for which such participation is mandatory; and
4	(3) to increase awareness of homeowners of
5	flood risks and improve the quality of information
6	regarding such risks provided to homeowners.
7	SEC. 3. STUDY REGARDING STATUS OF PRE-FIRM PROP
8	ERTIES AND MANDATORY PURCHASE RE
9	QUIREMENT FOR NATURAL 100-YEAR FLOOD
10	PLAIN AND NON-FEDERALLY RELATED
11	LOANS.
12	(a) In General.—The Comptroller General shall
13	conduct a study as follows:
14	(1) Pre-firm properties.—The study shall
15	determine the status of the national flood insurance
16	program, as of the date of the enactment of this Act
17	with respect to the provision of flood insurance cov-
18	erage for pre-FIRM properties (as such term is de-
19	fined in section 578(b) of the National Flood Insur-
20	ance Reform Act of 1994 (42 U.S.C. 4014 note))
21	which shall include determinations of—
22	(A) the number of pre-FIRM properties
23	for which coverage is provided and the extent of
24	such coverage;

- 1 (B) the cost of providing coverage for such 2 pre-FIRM properties to the national flood in-3 surance program;
  - (C) the anticipated rate at which such pre-FIRM properties will cease to be covered under the program;
  - (D) the effects that implementation of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 will have on the national flood insurance program generally and on coverage of pre-FIRM properties under the program; and
  - (E) the extent to which eligibility standards for pre-FIRM properties were inconsistent and resulted in disparities in coverage among such properties.
  - (2) Mandatory purchase requirement for Natural 100-year floodplain.—The study shall assess the impact, effectiveness, and feasibility of amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to properties located in any area that would be designated as an area having special

- flood hazards but for the existence of a structural flood protection system, and shall determine—
  - (A) the regulatory, financial and economic impacts of extending such mandatory purchase requirements on the costs of homeownership, the actuarial soundness of the national flood insurance program, the Federal Emergency Management Agency, local communities, insurance companies, and local land use;
    - (B) the effectiveness of extending such mandatory purchase requirements in protecting homeowners from financial loss and in protecting the financial soundness of the national flood insurance program; and
    - (C) any impact on lenders of complying with or enforcing such extended mandatory requirements.
  - (3) Mandatory purchase requirement for Non-Federally related loans.—The study shall assess the impact, effectiveness, and feasibility of, and basis under the Constitution of the United States for, amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act

1	to extend such requirements to any property that is
2	located in any area having special flood hazards and
3	which secures the repayment of a loan that is not
4	described in paragraph (1), (2), or (3) of section
5	102(b) of such Act, and shall determine how best to
6	administer and enforce such a requirement, taking
7	into consideration other insurance purchase require-
8	ments under Federal and State law.
9	(b) Report.—The Comptroller General shall submit
10	a report to the Congress regarding the results and conclu-
11	sions of the study under this subsection not later than the
12	expiration of the 6-month period beginning on the date
13	of the enactment of this Act.
14	SEC. 4. PHASE-IN OF ACTUARIAL RATES FOR NONRESIDEN-
15	TIAL PROPERTIES, CERTAIN PRE-FIRM PROP-
16	ERTIES, AND NON-PRIMARY RESIDENCES.
17	(a) In General.—Section 1308(c) of the National
18	Flood Insurance Act of 1968 (42 U.S.C. 4015(c)) is
19	amended—
20	(1) by redesignating paragraph (2) as para-
21	graph (4); and
22	(2) by inserting after paragraph (1) the fol-
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23	lowing new paragraphs:
24	lowing new paragraphs:  "(2) Nonresidential properties.—Any non-

1	"(3) Non-primary residences.—Any residen-
2	tial property that is not the primary residence of an
3	individual.
4	"(4) RECENTLY PURCHASED PRE-FIRM PROP-
5	ERTIES.—Any property that—
6	"(A) has been constructed or substantially
7	improved and for which such construction or
8	improvement was started, as determined by the
9	Director, before December 31, 1974, or before
10	the effective date of the initial rate map pub-
11	lished by the Director under paragraph (2) of
12	section 1360 for the area in which such prop-
13	erty is located, whichever is later; and
14	"(B) is purchased after the date of the en-
15	actment of the Flood Insurance Reform and
16	Modernization Act of 2006.".
17	(b) Technical Amendments.—Section 1308 of the
18	National Flood Insurance Act of 1968 (42 U.S.C. 4015)
19	is amended—
20	(1) in subsection (c)—
21	(A) in the matter preceding paragraph (1),
22	by striking "Subject only to the limitations pro-
23	vided under paragraphs (1) and (2), the" and
24	inserting "The"; and

- 1 (B) in paragraph (1), by striking ", except" and all that follows through "subsection (e)"; and
- 4 (2) in subsection (e), by striking "paragraph 5 (2) or (3)" and inserting "paragraph (4)".

### (c) Effective Date and Transition.—

- (1) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply beginning on the submission to the Congress, by the Director of the Federal Emergency Management Agency, of the report required under section 16(b)(2), except as provided in paragraph (2) of this subsection.
- (2) Transition.—In the case of any property described in paragraph (2), (3), or (4) of section 1308(c) of the National Flood Insurance Act of 1968, as amended by subsection (a) of this section, that, on the effective date under paragraph (1) of this subsection, is covered under a policy for flood insurance made available under the national flood insurance program for which the chargeable premium rates are less than the applicable estimated risk premium rate under section 1307(a)(1) for the area in which the property is located, the Director of the Federal Emergency Management Agency shall increase the chargeable premium rates for such

1 property over time to such applicable estimated risk 2 premium rate under section 1307(a)(1). Such in-3 crease shall be made by increasing the chargeable premium rates for the property (after application of 5 any increase in the premium rates otherwise applica-6 ble to such property) by 15 percent (or such lesser 7 amount as may be necessary so that the chargeable 8 rate does not exceed such applicable estimated risk 9 premium rate) once during the 12-month period that 10 begins upon the effective date under paragraph (1) 11 of this subsection and once every 12 months there-12 after until such increase is accomplished. The provi-13 sions of paragraphs (2), (3), and (4) of such section 14 1308(c) shall apply to such a property upon the ac-15 complishment of such increase and thereafter.

### 16 SEC. 5. WAITING PERIOD FOR EFFECTIVE DATE OF POLI-

- 17 CIES.
- 18 (a) Reduction.—Section 1306(c)(1) of the National
- 19 Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is
- 20 amended by striking "30-day" and inserting "15-day".
- 21 (b) Exception.—Section 1306(c)(2)(A) of the Na-
- 22 tional Flood Insurance Act of 1968 (42 U.S.C.
- 23 4013(c)(2)(A)) is amended by inserting before the semi-
- 24 colon the following: "or is in connection with the purchase
- 25 or other transfer of the property for which the coverage

is provided (regardless of whether a loan is involved in the purchase or transfer transaction). 2 3 SEC. 6. ENFORCEMENT. 4 Section 102(f) of the Flood Disaster Protection Act 5 of 1973 (42 U.S.C. 4012a(f)) is amended— 6 (1) in paragraph (5)— 7 (A) in the first sentence, by striking "\$350" and inserting "\$2,000"; and 8 9 (B) in the last sentence, by striking "\$100,000" and inserting "\$1,000,000; except 10 11 that such limitation shall not apply to a regu-12 lated lending institution or enterprise for a cal-13 endar year if, in any three (or more) of the five 14 calendar years immediately preceding such cal-15 endar year, the total amount of penalties as-16 sessed under this subsection against such lend-17 ing institution or enterprise was \$1,000,000"; 18 and 19 (2) in paragraph (6), by adding after the period at the end the following: "No penalty may be im-20 21 posed under this subsection on a regulated lending 22 institution or enterprise that has made a good faith

effort to comply with the requirements of the provi-

sions referred to in paragraph (2) or for any non-

material violation of such requirements.".

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### 1 SEC. 7. MAXIMUM COVERAGE LIMITS.

2	Subsection (b) of section 1306 of the National Flood					
3	Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—					
4	(1) in paragraph (2), by striking "\$250,000"					
5	and inserting "\$335,000";					
6	(2) in paragraph (3), by striking "\$100,000"					
7	and inserting "\$135,000"; and					
8	(3) in paragraph (4), by striking "\$500,000"					
9	each place such term appears and inserting					
10	"\$670,000".					
11	SEC. 8. COVERAGE FOR ADDITIONAL LIVING EXPENSES,					
12	BASEMENT IMPROVEMENTS, BUSINESS					
13	INTERRUPTION, AND REPLACEMENT COST					
14	OF CONTENTS.					
15	Subsection (b) of section 1306 of the National Flood					
16	Insurance Act of 1968 (42 U.S.C. 4013) is amended—					
17	(1) in paragraph (4), by striking "and" at the					
18	end;					
19	(2) in paragraph (5)—					
20	(A) by inserting "pursuant to paragraph					
21	(2), (3), or (4)" after "any flood insurance cov-					
22	erage"; and					
23	(B) by striking the period at the end and					
24	inserting a semicolon; and					
25	(3) by adding at the end the following new					
26	paragraphs:					

"(6) in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);

"(7) in the case of any residential property, optional coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);

"(8) in the case of any residential property, optional coverage for losses, resulting from floods, to improvements and personal property located in basements, crawl spaces, and other enclosed areas under buildings that are not covered by primary flood in-

1 surance coverage under this title, shall be made 2 available to every insured upon renewal and every 3 applicant, except that such coverage shall be made 4 available only at chargeable rates that are not less 5 than the estimated premium rates for such coverage 6 determined in accordance with section 1307(a)(1); "(9) in the case of any commercial property, 7 8 optional coverage for losses resulting from any par-9 tial or total interruption of the insured's business 10 caused by damage to, or loss of, such property from 11 a flood shall be made available to every insured upon 12 renewal and every applicant, except that— "(A) for purposes of such coverage, losses 13 14 shall be determined based on the profits the 15 covered business would have earned, based on 16 previous financial records, had the flood not oc-17 curred; and 18 "(B) such coverage shall be made available 19 only at chargeable rates that are not less than 20 the estimated premium rates for such coverage 21 determined in accordance with section 22 1307(a)(1); and "(10) in the case of any residential property 23

24 and any commercial property, optional coverage for 25 the full replacement costs of any contents related to

- 1 the structure that exceed the limits of coverage oth-
- 2 erwise provided in this subsection shall be made
- available to every insured upon renewal and every
- 4 applicant, except that such coverage shall be made
- 5 available only at chargeable rates that are not less
- 6 than the estimated premium rates for such coverage
- determined in accordance with section 1307(a)(1).".

### 8 SEC. 9. INCREASE IN ANNUAL LIMITATION ON PREMIUM IN-

- 9 CREASES.
- 10 Section 1308(e) of the National Flood Insurance Act
- 11 of 1968 (42 U.S.C. 4015(e)) is amended by striking "10
- 12 percent" and inserting "15 percent".

### 13 SEC. 10. INCREASE IN BORROWING AUTHORITY.

- 14 (a) Borrowing Authority.—The first sentence of
- 15 subsection (a) of section 1309 of the National Flood In-
- 16 surance Act of 1968 (42 U.S.C. 4016(a)), as amended by
- 17 the National Flood Insurance Program Further Enhanced
- 18 Borrowing Authority Act of 2005 (Public Law 109–106;
- 19 119 Stat. 2288), is amended by striking
- 20 "\$20,775,000,000" and inserting "\$25,000,000,000".
- 21 (b) FEMA REPORT.—Not later than the expiration
- 22 of the 6-month period beginning on the date of the enact-
- 23 ment of this Act, the Director of the Federal Emergency
- 24 Management Agency shall submit a report to the Congress
- 25 setting forth a plan for repaying any amounts borrowed

- 1 pursuant to increase in borrowing authority authorized
- 2 under the amendments made by subsection (a).
- 3 SEC. 11. FEMA PARTICIPATION IN STATE DISASTER CLAIMS
- 4 MEDIATION PROGRAMS.
- 5 The National Flood Insurance Act of 1968 is amend-
- 6 ed by inserting after section 1313 (42 U.S.C. 4020) the
- 7 following new section:
- 8 "SEC. 1314. FEMA PARTICIPATION IN STATE DISASTER
- 9 CLAIMS MEDIATION PROGRAMS.
- 10 "(a) REQUIREMENT TO PARTICIPATE.—In the case
- 11 of the occurrence of a natural catastrophe that may have
- 12 resulted in flood damage covered by insurance made avail-
- 13 able under the National Flood Insurance Program and a
- 14 loss covered by personal lines residential property insur-
- 15 ance policy, upon request made by the insurance commis-
- 16 sioner of a State (or such other official responsible for reg-
- 17 ulating the business of insurance in the State) for the par-
- 18 ticipation of representatives of the Director in a program
- 19 sponsored by such State for nonbinding mediation of in-
- 20 surance claims resulting from a natural catastrophe, the
- 21 Director shall cause such representatives to participate in
- 22 such State program, when claims under the national flood
- 23 insurance program are involved, to expedite settlement of
- 24 flood damage claims resulting from such catastrophe.".

- 1 "(b) Extent of Participation.—Participation by
- 2 representatives of the Director required under subsection
- 3 (a) with respect to flood damage claims resulting from a
- 4 natural catastrophe shall include—
- 5 "(1) providing adjusters certified for purposes
- 6 of the national flood insurance program who are au-
- 7 thorized to settle claims against such program re-
- 8 sulting from such catastrophe in amounts up to the
- 9 limits of policies under such program;
- 10 "(2) requiring such adjusters to attend State-
- sponsored mediation meetings regarding flood insur-
- ance claims resulting from such catastrophe at times
- and places as may be arranged by the State;
- "(3) participating in good-faith negotiations to-
- ward the settlement of such claims with policy-
- holders of coverage made available under the na-
- tional flood insurance program; and
- 18 "(4) finalizing the settlement of such claims on
- behalf of the national flood insurance program with
- such policyholders.
- 21 "(c) Coordination.—Representatives of the Direc-
- 22 tor who participate pursuant to this section in a State-
- 23 sponsored mediation program with respect to a natural ca-
- 24 tastrophe shall at all times coordinate their activities with
- 25 insurance officials of the State and representatives of in-

- 1 surers for the purpose of consolidating and expediting the
- 2 settlement of claims under the national flood insurance
- 3 program resulting from such catastrophe at the earliest
- 4 possible time.
- 5 "(d) Mediation Proceedings and Privileged
- 6 Documents.—As a condition of the participation of Rep-
- 7 resentatives of the Director pursuant to this section in
- 8 State-sponsored mediation, all statements made and docu-
- 9 ments produced pursuant to such mediation involving rep-
- 10 resentatives of the Director shall be deemed privileged and
- 11 confidential settlement negotiations made in anticipation
- 12 of litigation.
- 13 "(e) Effect of Participation on Liability,
- 14 RIGHT, AND OBLIGATIONS.—Participation of Representa-
- 15 tives of the Director pursuant to this section in State-
- 16 sponsored mediation shall not affect or expand the liability
- 17 of any party in contract or in tort, nor shall it affect the
- 18 rights or obligations of the parties as provided in the
- 19 Standard Flood Insurance Policy under the national flood
- 20 insurance program, regulations of the Federal Emergency
- 21 Management Agency, this Act, or Federal common law.
- 22 "(f) Exclusive Federal Jurisdiction.—Partici-
- 23 pation of Representatives of the Director pursuant to this
- 24 section in State-sponsored mediation shall not alter,

- 1 change or modify the original exclusive jurisdiction of
- 2 United States courts as provided in this Act.
- 3 "(g) Cost Limitation.—Nothing in this section
- 4 shall be construed to require the Director or representa-
- 5 tives of the Director to pay additional mediation fees relat-
- 6 ing to flood claims associated with a State-sponsored me-
- 7 diation program in which representatives of the Director
- 8 participate.
- 9 "(h) Exception.—In the case of the occurrence of
- 10 a natural catastrophe that results in flood damage claims
- 11 under the national flood insurance program and does not
- 12 result in any loss covered by a personal lines residential
- 13 property insurance policy—
- 14 "(1) this section shall not apply; and
- 15 "(2) the provisions of the Standard Flood In-
- surance Policy under the national flood insurance
- 17 program and the appeals process established pursu-
- ant to section 205 of the Bunning-Bereueter-
- 19 Blumenauer Flood Insurance Reform Act of 2004
- 20 (Public Law 108–264; 118 Stat. 726) and regula-
- 21 tions issued pursuant to such section shall apply ex-
- clusively.
- 23 "(i) Representatives of Director.—For pur-
- 24 poses of this section, the term 'representatives of the Di-
- 25 rector' means representatives of the national flood insur-

- 1 ance program who participate in the appeals process es-
- 2 tablished pursuant to section 205 of the Bunning-
- 3 Bereueter-Blumenauer Flood Insurance Reform Act of
- 4 2004 (Public Law 108–264; 118 Stat. 726) and regula-
- 5 tions issued pursuant to such section.".
- 6 SEC. 12. FEMA REPORTS ON FINANCIAL STATUS OF INSUR-
- 7 ANCE PROGRAM.
- 8 Section 1320 of the National Flood Insurance Act of
- 9 1968 (42 U.S.C. 4027) is amended—
- 10 (1) in the section heading, by striking "RE-
- 11 PORT TO THE PRESIDENT" and inserting "RE-
- 12 PORTS";
- 13 (2) in subsection (a), by striking "In Gen-
- 14 ERAL" and inserting "BIENNIAL REPORT TO PRESI-
- DENT"; and
- 16 (3) by adding at the end the following new sub-
- 17 section:
- 18 "(c) Semiannual Reports to Congress on Fi-
- 19 NANCIAL STATUS.—Not later than June 30 and December
- 20 31 of each year, the Director shall submit a report to the
- 21 Congress regarding the financial status of the national
- 22 flood insurance program under this title. Each such report
- 23 shall describe the financial status of the National Flood
- 24 Insurance Fund and current and projected levels of

- 1 claims, premium receipts, expenses, and borrowing under
- 2 the program.".
- 3 SEC. 13. EXTENSION OF PILOT PROGRAM FOR MITIGATION
- 4 OF SEVERE REPETITIVE LOSS PROPERTIES.
- 5 Section 1361A of the National Flood Insurance Act
- 6 of 1968 (42 U.S.C. 4102a) is amended as follows:
- 7 (1) Funding.—In subsection (k)(1), by strik-
- 8 ing "and 2009" and inserting "2009, 2010, and
- 9 2011".
- 10 (2) TERMINATION.—In subsection (1), by strik-
- ing "September 30, 2009" and inserting "September
- 12 30, 2011".
- 13 SEC. 14. NOTICE OF AVAILABILITY OF FLOOD INSURANCE
- 14 AND ESCROW IN RESPA GOOD FAITH ESTI-
- 15 **MATE.**
- Subsection (c) of section 5 of the Real Estate Settle-
- 17 ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is
- 18 amended by adding at the end the following new sentence:
- 19 "Each such good faith estimate shall include the following
- 20 conspicuous statements: (1) that flood insurance coverage
- 21 for residential real estate is generally available under the
- 22 National Flood Insurance Program whether or not the
- 23 real estate is located in an area having special flood haz-
- 24 and and that, to obtain such coverage, a home owner or
- 25 purchaser should contact a property insurance agent,

- 1 broker, or company; and (2) that the escrowing of flood
- 2 insurance payments is required for many loans under sec-
- 3 tion 102(d) of the Flood Disaster Protection Act of 1973,
- 4 and may be a convenient and available option with respect
- 5 to other loans.".

### 6 SEC. 15. REITERATION OF FEMA RESPONSIBILITIES UNDER

- 7 **2004 REFORM ACT.**
- 8 (a) Appeals Process.—As directed in section 205
- 9 of the Bunning-Bereuter-Blumenauer Flood Insurance
- 10 Reform Act of 2004 (42 U.S.C. 4011 note), the Director
- 11 of the Federal Emergency Management Agency is again
- 12 directed to, not later than 90 days after the date of the
- 13 enactment of this Act, establish an appeals process
- 14 through which holders of a flood insurance policy may ap-
- 15 peal the decisions, with respect to claims, proofs of loss,
- 16 and loss estimates relating to such flood insurance policy
- 17 as required by such section.
- 18 (b) Minimum Training and Education Require-
- 19 MENTS.—The Director of the Federal Emergency Man-
- 20 agement Agency is directed to continue to work with the
- 21 insurance industry, State insurance regulators, and other
- 22 interested parties to implement the minimum training and
- 23 education standards for all insurance agents who sell flood
- 24 insurance policies that were established by the Director
- 25 under the notice published September 1, 2005 (70 Fed.

- 1 Reg. 52117) pursuant to section 207 of the Bunning-Be-
- 2 reuter-Blumenauer Flood Insurance Reform Act of 2004
- 3 (42 U.S.C. 4011 note).
- 4 (c) Report.—Not later than the expiration of the 6-
- 5 month period beginning on the date of the enactment of
- 6 this Act, the Director of the Federal Emergency Manage-
- 7 ment Agency shall submit a report to the Congress de-
- 8 scribing the implementation of each provision of the
- 9 Bunning-Bereuter-Blumenauer Flood Insurance Reform
- 10 Act of 2004 (Public Law 108–264) and identifying each
- 11 regulation, order, notice, and other material issued by the
- 12 Director in implementing each such provision.
- 13 SEC. 16. UPDATING OF FLOOD MAPS AND ELEVATION
- 14 STANDARDS.
- 15 (a) Flood Mapping Program.—Section 1360 of
- 16 the National Flood Insurance Act of 1968 (42 U.S.C.
- 17 4101) is amended by adding at the end the following new
- 18 subsection:
- 19 "(k) Program to Review, Update, and Maintain
- 20 FLOOD INSURANCE PROGRAM MAPS.—
- 21 "(1) IN GENERAL.—The Director, in coordina-
- tion with the Technical Mapping Advisory Council
- established pursuant to section 576 of the National
- Flood Insurance Reform Act of 1994 (42 U.S.C.
- 25 4101 note) and section 16(c) of the Flood Insurance

1	Reform and Modernization Act of 2006, shall estab-
2	lish a program under which the Director shall re-
3	view, update, and maintain national flood insurance
4	program rate maps in accordance with this sub-
5	section.
6	"(2) Inclusions.—
7	"(A) COVERED AREAS.—Each map up-
8	dated under this subsection shall include a de-
9	piction of—
10	"(i) the 500-year floodplain;
11	"(ii) areas that could be inundated as
12	a result of the failure of a levee, as deter-
13	mined by the Director; and
14	"(iii) areas that could be inundated as
15	a result of the failure of a dam, as identi-
16	fied under the National Dam Safety Pro-
17	gram Act (33 U.S.C. 467 et seq.).
18	"(B) OTHER INCLUSIONS.—In updating
19	maps under this subsection, the Director may
20	include—
21	"(i) any relevant information on
22	coastal inundation from—
23	"(I) an applicable inundation
24	map of the Corps of Engineers; and

1	"(II) data of the National Oce-
2	anic and Atmospheric Administration
3	relating to storm surge modeling;
4	"(ii) any relevant information of the
5	Geographical Service on stream flows, wa-
6	tershed characteristics, and topography
7	that is useful in the identification of flood
8	hazard areas, as determined by the Direc-
9	tor; and
10	"(iii) a description of any hazard that
11	might impact flooding, including, as deter-
12	mined by the Director—
13	"(I) land subsidence and coastal
14	erosion areas;
15	"(II) sediment flow areas;
16	"(III) mud flow areas;
17	"(IV) ice jam areas; and
18	"(V) areas on coasts and inland
19	that are subject to the failure of
20	structural protective works, such as
21	levees, dams, and floodwalls.
22	"(3) Standards.—In updating and maintain-
23	ing maps under this subsection, the Director shall
24	establish standards to—
25	"(A) ensure that maps are adequate for—

1	"(i) flood risk determinations; and
2	"(ii) use by State and local govern-
3	ments in managing development to reduce
4	the risk of flooding;
5	"(B) facilitate the Director, in conjunction
6	with State and local governments, to identify
7	and use consistent methods of data collection
8	and analysis in developing maps for commu-
9	nities with similar flood risks, as determined by
10	the Director; and
11	"(C) ensure that emerging weather fore-
12	casting technology is used, where practicable, in
13	flood map evaluations and the identification of
14	potential risk areas.
15	"(4) Hurricanes katrina and rita mapping
16	PRIORITY.—In updating and maintaining maps
17	under this subsection, the Director shall—
18	"(A) give priority to the updating and
19	maintenance of maps of coastal areas affected
20	by Hurricane Katrina or Hurricane Rita to pro-
21	vide guidance with respect to hurricane recovery
22	efforts; and
23	"(B) use the process of updating and
24	maintaining maps under subparagraph (A) as a

- 1 model for updating and maintaining other 2 maps.
- "(5) EDUCATION PROGRAM.—The Director shall, after each update to a flood insurance pro-gram rate map, in consultation with the chief execu-tive officer of each community affected by the up-date, conduct a program to educate each such com-munity about the update to the flood insurance pro-gram rate map and the effects of the update.
  - "(6) Annual Report.—Not later than June 30 of each year, the Director shall submit a report to the Congress describing, for the preceding 12-month period, the activities of the Director under the program under this section and the reviews and updates of flood insurance program rate maps conducted under the program. Each such annual report shall contain the most recent report of the Technical Mapping Advisory Council pursuant to section 576(c)(3) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note).
  - "(7) AUTHORIZATION OF APPROPRIATIONS.— There is authorized to be appropriated to the Director to carry out this subsection \$300,000,000 for each of fiscal years 2007 through 2012.".

- 1 (b) One-Time Review and Updating of All 2 Flood Zones and Annual Map Modernization Re-
- 3 PORTS.—

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- 4 (1) REQUIRED REVISION.—The Director of the 5 Federal Emergency Management Agency shall, as 6 soon as possible after the date of the enactment of 7 this Act, conduct a review of all floodplain areas and 8 flood-risk zones identified, delineated, or established 9 pursuant to such section 1360 and shall revise and 10 update all such areas and zones. The revisions and 11 updating under this paragraph shall not be subject 12 to the requirements of section 1360(k) of the Na-13 tional Flood Insurance Act of 1968 (as added by 14 subsection (a) of this section).
  - (2) CERTIFICATION OF COMPLETION.—Upon completing the review, revision, and updating required under paragraph (1), the Director shall submit to the Congress a report certifying such completion.
  - (3) Annual reports.—During the period that ends upon certification under paragraph (2) of this subsection by the Director, the Director shall include in the annual report required under section 1360(k)(5) of the National Flood Insurance Act of 1968 (as added by subsection (a) of this section) a

1	description of the extent to which the review and up-
2	dating required under paragraph (1) of this sub-
3	section has been completed.
4	(c) REESTABLISHMENT OF TECHNICAL MAPPING
5	ADVISORY COUNCIL.—
6	(1) Reestablishment.—There is reestab-
7	lished the Technical Mapping Advisory Council, in
8	accordance with this subsection and section 576 of
9	the National Flood Insurance Reform Act of 1994
10	(42 U.S.C. 4101 note).
11	(2) Membership.—Paragraph (1) of section
12	576(b) of the National Flood Insurance Reform Act
13	of 1994 (42 U.S.C. 4101 note) is amended—
14	(A) by redesignating subparagraphs (E)
15	(F), (G), (H), (I), and (J) as subparagraphs
16	(F), (G), (H), (K), (M), and (N), respectively
17	(B) by inserting after subparagraph (D)
18	the following new subparagraph:
19	"(E) a representative of the Corps of Engi-
20	neers of the United States Army;";
21	(C) by inserting after subparagraph (H)
22	(as so redesignated by subparagraph (A) of this
23	paragraph) the following new subparagraphs:
24	"(I) a representative of local or regional
25	flood and stormwater agencies.

1	"(J) a representative of State geographic
2	information coordinators;"; and
3	(D) by inserting after subparagraph (K)
4	(as so redesignated by subparagraph (A) of this
5	paragraph) the following new subparagraph:
6	"(L) a representative of flood insurance
7	servicing companies;".
8	(3) Appointment.—The Director of the Fed-
9	eral Emergency Management Agency, or the Direc-
10	tor's designee, shall take action as soon as possible
11	after the date of the enactment of this Act to ap-
12	point the members of the Technical Mapping Advi-
13	sory Council pursuant to section 576(b)(1) of the
14	National Flood Insurance Reform Act of 1994, as
15	amended by paragraph (2) of this subsection.
16	(4) Duties.—Subsection (c) of section 576 of
17	the National Flood Insurance Reform Act of 1994
18	(42 U.S.C. 4101 note) is amended to read as fol-
19	lows:
20	"(c) Duties.—The Council shall—
21	"(1) make recommendations to the Director for
22	improvements to the flood map modernization pro-
23	gram under section 1360(k) of the National Flood
24	Insurance Act of 1968 (42 IJSC 41010(k)):

1 "(2) make recommendations to the Director for 2 maintaining a modernized inventory of flood hazard 3 maps and information; and "(3) submit an annual report to the Director 4 5 that contains a description of the activities and rec-6 ommendations of the Council.". 7 (5) TERMINATION.—Subsection (k) of section 8 576 of the National Flood Insurance Reform Act of 9 1994 (42 U.S.C. 4101 note) is amended by striking "under subsection (b)(1)" and inserting "pursuant 10 11 to subsection (b)(1) of this section and section 12 16(c)(3) of the Flood Insurance Reform and Mod-13 ernization Act of 2006". 14 (d) Post-Disaster Flood Elevation Deter-15 MINATIONS.—Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), as amended by the 16 preceding provisions of this Act, is further amended by 17 18 adding at the end the following new subsection: 19 "(l) Interim Post-Disaster FLOOD ELE-20 VATIONS.— 21 "(1) AUTHORITY.—Notwithstanding any other 22 provision of this section or section 1363, the Direc-

tor may, after any flood-related disaster, establish by

order interim flood elevation requirements for pur-

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poses of the national flood insurance program for any areas affected by such flood-related disaster.

"(2) EFFECTIVENESS.—Such interim elevation requirements for such an area shall take effect immediately upon issuance and may remain in effect until the Director establishes new flood elevations for such area in accordance with section 1363 or the Director provides otherwise.".

### (e) GAO STUDY OF LOW-INCOME DISCOUNT.—

(1) In General.—The Comptroller General of the United States shall conduct a study of potential methods, practices, and incentives that would increase the extent to which low-income families (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))) that own residential properties located within areas having special flood hazards purchase flood insurance coverage under the national flood insurance program. In conducting the study the Comptroller General shall analyze—

(A) the feasibility and effectiveness of providing such coverage to low-income families at rates that are discounted from the rates at which such coverage is otherwise provided, the amounts by which such rates should be dis-

- counted to ensure that coverage is affordable to
  such families and to encourage purchase of coverage by such families, and the effects of such
  discounts on the national flood insurance program; and
- 6 (B) the extent to which residential prop-7 erties occupied by low-income families would be 8 affected by expanding the mandatory purchase 9 requirements of the national flood insurance 10 program to the areas included in the national 11 flood insurance program rate maps pursuant to 12 section 1360(k) of the National Flood Insur-13 ance Act of 1968 (42 U.S.C. 4101(k)), as 14 amended by subsection (a) of this section.
  - (2) Report.—The Comptroller General shall submit to the Congress a report setting forth the conclusions of the study under this subsection not later than 12 months after the date of the enactment of this Act.
- 20 SEC. 17. NOTIFICATION AND APPEAL OF MAP CHANGES;
- 21 NOTIFICATION OF ESTABLISHMENT OF
- FLOOD ELEVATIONS.
- 23 Section 1363 of the National Flood Insurance Act of 24 1968 (42 U.S.C. 4104) is amended by striking the section

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- 1 designation and all that follows through the end of sub-
- 2 section (a) and inserting the following:
- 3 "Sec. 1363. (a) In establishing projected flood ele-
- 4 vations for land use purposes with respect to any commu-
- 5 nity pursuant to section 1361, the Director shall first pro-
- 6 pose such determinations—
- "(1) by providing the chief executive officer of
  each community affected by the proposed elevations,
  by certified mail, with a return receipt requested,
  notice of the elevations, including a copy of the maps
  for the elevations for such community and a statement explaining the process under this section to appeal for changes in such elevations;
  - "(2) by causing notice of such elevations to be published in the Federal Register, which notice shall include information sufficient to identify the elevation determinations and the communities affected, information explaining how to obtain copies of the elevations, and a statement explaining the process under this section to appeal for changes in the elevations;
  - "(3) by publishing the elevations in a prominent local newspaper; and

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1	"(4) by providing written notification, by first					
2	class mail, to each owner of real property affected by					
3	the proposed elevations of—					
4	"(A) the status of such property, both					
5	prior to and after the effective date of the pro-					
6	posed determination, with respect to flood zone					
7	and flood insurance requirements under th					
8	Act and the Flood Disaster Protection Act of					
9	1973;					
10	"(B) the process under this section to ap-					
11	peal a flood elevation determination; and					
12	"(C) the mailing address and phone num-					
13	ber of a person the owner may contact for mo					
14	information or to initiate an appeal.".					
15	SEC. 18. NATIONAL LEVEE INVENTORY.					
16	To identify levees for the national flood insurance					
17	program, the Director of the Federal Emergency Manage-					
18	ment Agency shall maintain and periodically publish an					
19	inventory of levees in the United States, and shall consult					
20	with the Secretary of the Army as necessary to maintain					
21	such inventory.					
22	SEC. 19. CLARIFICATION OF REPLACEMENT COST PROVI					
23	SIONS, FORMS, AND POLICY LANGUAGE.					
24	Not later than the expiration of the 3-month period					
25	beginning on the date of the enactment of this Act, the					

- 1 Director of the Federal Emergency Management Agency
- 2 shall—

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- (1) in plain language using easy to understand terms and concepts, issue regulations, and revise any materials made available by such Agency, to clarify the applicability of replacement cost coverage under the national flood insurance program;
  - (2) in plain language using easy to understand terms and concepts, revise any regulations, forms, notices, guidance, and publications relating to the full cost of repair or replacement under the replacement cost coverage to more clearly describe such coverage to flood insurance policyholders and information to be provided by such policyholders relating to such coverage, and to avoid providing misleading information to such policyholders;
  - (3) revise the language in standard flood insurance policies under such program regarding rating and coverage descriptions in a manner that is consistent with language used widely in other homeowners and property and casualty insurance policies, including such language regarding classification of buildings, basements, crawl spaces, detached garages, enclosures below elevated buildings, and replacement costs; and

1	(4) include in each standard flood insurance
2	policy a one-page description of the policy using
3	plain language and easy to understand terms and
4	concepts.
5	SEC. 20. AUTHORIZATION OF ADDITIONAL FEMA STAFF.
6	Notwithstanding any other provision of law, the Di-
7	rector of the Federal Emergency Management Agency
8	may employ such additional staff of such Agency as may
9	be necessary to carry out all of the responsibilities of the
10	Director pursuant to this Act and the amendments made
11	by this Act. There are authorized to be appropriated to
12	Director such sums as may be necessary for costs of em-
13	ploying such additional staff.
14	SEC. 21. INVESTIGATION OF WRITE-YOUR-OWN INSURERS'
14 15	SEC. 21. INVESTIGATION OF WRITE-YOUR-OWN INSURERS' ADJUSTMENT OF CLAIMS RELATING TO HUR-
15	ADJUSTMENT OF CLAIMS RELATING TO HUR-
15 16 17	ADJUSTMENT OF CLAIMS RELATING TO HURRICANE KATRINA.
15 16 17	ADJUSTMENT OF CLAIMS RELATING TO HUR- RICANE KATRINA.  (a) INVESTIGATION.—The Inspector General of the
15 16 17 18	ADJUSTMENT OF CLAIMS RELATING TO HUR-RICANE KATRINA.  (a) INVESTIGATION.—The Inspector General of the Department of Homeland Security shall carry out an in-
15 16 17 18	ADJUSTMENT OF CLAIMS RELATING TO HUR- RICANE KATRINA.  (a) Investigation.—The Inspector General of the Department of Homeland Security shall carry out an in- vestigation of insurers making flood insurance coverage
15 16 17 18 19	ADJUSTMENT OF CLAIMS RELATING TO HUR-RICANE KATRINA.  (a) INVESTIGATION.—The Inspector General of the Department of Homeland Security shall carry out an investigation of insurers making flood insurance coverage available under the Write-Your-Own program pursuant to
15 16 17 18 19 20 21	ADJUSTMENT OF CLAIMS RELATING TO HUR- RICANE KATRINA.  (a) INVESTIGATION.—The Inspector General of the Department of Homeland Security shall carry out an in- vestigation of insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1345 of the National Flood Insurance Act of 1968
15 16 17 18 19 20 21	ADJUSTMENT OF CLAIMS RELATING TO HUR-RICANE KATRINA.  (a) INVESTIGATION.—The Inspector General of the Department of Homeland Security shall carry out an investigation of insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44,

- 1 improperly attributed damages from such hurricane
- 2 to flooding covered under coverage provided under
- 3 the national flood insurance program rather than to
- 4 windstorms covered by other coverage provided by
- 5 such insurers or by windstorm insurance pools in
- 6 which such insurers participated; and
- 7 (2) the extent to which such improper attribu-
- 8 tion of damages occurred.
- 9 (b) REPORT.—Not later than the expiration of the
- 10 6-month period that begins upon the date of the enact-
- 11 ment of this Act, the Inspector General of the Department
- 12 of Homeland Security shall submit to the Congress a re-
- 13 port setting forth the conclusions of the investigation pur-
- 14 suant to subsection (a).
- 15 SEC. 22. ELIGIBILITY OF PROPERTY DEMOLITION AND RE-
- 16 BUILDING FOR MITIGATION ASSISTANCE
- 17 **PROGRAM.**
- Section 1366(e)(5)(B) of the National Flood Insur-
- 19 ance Act of 1968 (42 U.S.C. 4104c(e)(5)(B)) is amended
- 20 by inserting after "flood risk" the following: ", or the dem-
- 21 olition and rebuilding of structures located in such areas
- 22 to at least Base Flood Elevation or any greater elevation
- 23 required by any local ordinance".

### 40 SEC. 23. SAMPLING METHODS FOR QUALITY ASSURANCE. 2 Section 1345 of the National Flood Insurance Act of 3 1968 (42 U.S.C. 4081) is amended by adding at the end the following new subsection: 4 5 "(d) Sampling Methods for Quality Assur-ANCE.—In selecting the cases and claims for operational reviews and claims re-inspections regarding the national flood insurance program under this title, the Director shall use a statistically valid probability sample whose results 10 can be generalized to the entire population of reviews and 11 claims from which the sample is drawn and whose sampling error can be quantified.". SEC. 24. EXTENSION OF DEADLINE FOR FILING PROOF OF 14 LOSS. 15 (a) In General.—Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended— 17 (1) by inserting "(a) PAYMENT.—" before "The 18 19 Director"; and 20 (2) by adding at the end the following new sub-21 section: 22 "(b) FILING DEADLINE FOR PROOF OF LOSS.— 23 "(1) IN GENERAL.—In establishing any require-24 ments regarding notification, proof, or approval of

claims for damage to or loss of property which is

covered by flood insurance made available under this

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- 1 title, the Director may not require an insured to no-
- 2 tify the Director of such damage or loss, submit a
- 3 claim for such damage or loss, or certify to or sub-
- 4 mit proof of such damage or loss, before the expira-
- 5 tion of the 180-day period that begins on the date
- 6 that such damage or loss occurred.
- 7 "(2) Exceptions.— Notwithstanding any
- 8 deadline established in accordance with paragraph
- 9 (1), the Director may not deny a claim for damage
- or loss described in such paragraph solely for failure
- 11 to meet such deadline if the insured demonstrates
- any good cause for such failure.".
- 13 (b) Applicability.—Subsection (b) of section 1312
- 14 of the National Flood Insurance Act of 1968, as added
- 15 by subsection (a)(2) of this section, shall apply with re-
- 16 spect to any claim under which the damage to or loss of
- 17 property occurred on or after September 18, 2003.

Passed the House of Representatives June 27, 2006.

Clerk.

Attest:

# 109TH CONGRESS H. R. 4973

# AN ACT

To restore the financial solvency of the national flood insurance program, and for other purposes.